



General Assembly

Amendment

January Session, 2005

LCO No. 6781

HB0521506781HDO

Offered by:

REP. WALKER, 93rd Dist.
REP. KIRKLEY-BEY, 5th Dist.
REP. CANDELARIA, 95th Dist.
REP. MANTILLA, 4th Dist.
REP. MCCRORY, 7th Dist.

To: Subst. House Bill No. 5215

File No. 528

Cal. No. 387

"AN ACT CONCERNING COURT JURISDICTION IN JUVENILE MATTERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 46b-120 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2005*):

5 The terms used in this chapter shall, in its interpretation and in the
6 interpretation of other statutes, be defined as follows: (1) "Child"
7 means any person under sixteen years of age and, for purposes of
8 delinquency matters, "child" means (A) (i) before October 1, 2007, any
9 person [(A)] under sixteen years of age, and (ii) on and after October 1,
10 2007, any person under seventeen years of age, or (B) [sixteen years of]
11 any person who has attained the applicable age specified in

12 subparagraph (A) of this subdivision or is older and who, prior to
13 attaining [sixteen years of] such applicable age, has violated any
14 federal or state law or municipal or local ordinance, other than a
15 violation of an ordinance regulating behavior of a child in a family
16 with service needs and, on and after October 1, 2007, other than a
17 violation by a licensed motor vehicle operator of a law or ordinance
18 concerning the operation of a motor vehicle that is an infraction or a
19 motor vehicle violation specified in subsection (b) of section 51-164n,
20 and, subsequent to attaining [sixteen years of] such applicable age,
21 violates any order of the Superior Court or any condition of probation
22 ordered by the Superior Court with respect to such delinquency
23 proceeding; (2) "youth" means (A) before October 1, 2007, any person
24 sixteen or seventeen years of age, and (B) on and after October 1, 2007,
25 any person seventeen years of age; (3) "youth in crisis" means any
26 youth who, within the last two years, (A) has without just cause run
27 away from the parental home or other properly authorized and lawful
28 place of abode, (B) is beyond the control of the youth's parents,
29 guardian or other custodian, or (C) has four unexcused absences from
30 school in any one month or ten unexcused absences in any school year;
31 (4) "abused" means that a child or youth (A) has been inflicted with
32 physical injury or injuries other than by accidental means, or (B) has
33 injuries that are at variance with the history given of them, or (C) is in
34 a condition that is the result of maltreatment such as, but not limited
35 to, malnutrition, sexual molestation or exploitation, deprivation of
36 necessities, emotional maltreatment or cruel punishment; (5) a child
37 may be found "mentally deficient" who, by reason of a deficiency of
38 intelligence that has existed from birth or from early age, requires, or
39 will require, for his protection or for the protection of others, special
40 care, supervision and control; (6) a child may be convicted as
41 "delinquent" who has violated (A) any federal or state law or
42 municipal or local ordinance, other than an ordinance regulating
43 behavior of a child in a family with service needs, (B) except as
44 provided in section 46b-148, as amended by this act, any order of the
45 Superior Court, other than a pretrial order or an order that imposes a
46 condition or regulates future conduct of a child as part of the court

47 supervision of a family with service needs, or (C) conditions of
48 probation as ordered by the court; (7) a child or youth may be found
49 "dependent" whose home is a suitable one for the child or youth, save
50 for the financial inability of the child's or youth's parents, parent [,] or
51 guardian, or other person maintaining such home, to provide the
52 specialized care the condition of the child or youth requires; (8) "family
53 with service needs" means a family that includes a child who (A) has
54 without just cause run away from the parental home or other properly
55 authorized and lawful place of abode, (B) is beyond the control of the
56 child's parent, parents, guardian or other custodian, (C) has engaged in
57 indecent or immoral conduct, (D) is a truant or habitual truant or who,
58 while in school, has been continuously and overtly defiant of school
59 rules and regulations, or (E) is thirteen years of age or older and has
60 engaged in sexual intercourse with another person and such other
61 person is thirteen years of age or older and not more than two years
62 older or younger than such child; (9) a child or youth may be found
63 "neglected" who (A) has been abandoned, or (B) is being denied proper
64 care and attention, physically, educationally, emotionally or morally,
65 or (C) is being permitted to live under conditions, circumstances or
66 associations injurious to the well-being of the child or youth, or (D) has
67 been abused; (10) a child or youth may be found "uncared for" who is
68 homeless or whose home cannot provide the specialized care that the
69 physical, emotional or mental condition of the child requires. For the
70 purposes of this section, the treatment of any child by an accredited
71 Christian Science practitioner, in lieu of treatment by a licensed
72 practitioner of the healing arts, shall not of itself constitute neglect or
73 maltreatment; (11) "delinquent act" means (A) the violation of any
74 federal or state law or municipal or local ordinance, other than (i) the
75 violation of an ordinance regulating the behavior of a child in a family
76 with service needs, and (ii) on and after October 1, 2007, the violation
77 by a licensed motor vehicle operator of a law or ordinance concerning
78 the operation of a motor vehicle that is an infraction or a motor vehicle
79 violation specified in subsection (b) of section 51-164n, or (B) except as
80 provided in section 46b-148, as amended by this act, the violation of
81 any order of the Superior Court, other than a pretrial order or an order

82 that imposes a condition or regulates future conduct of a child as part
83 of the court supervision of a family with service needs; (12) "serious
84 juvenile offense" means (A) the violation [by a child] of, including
85 attempt or conspiracy to violate, [sections] section 21a-277, 21a-278,
86 29-33, 29-34, 29-35, 53-21, 53-80a, 53-202b, 53-202c, 53-390 to 53-392,
87 inclusive, 53a-54a to 53a-57, inclusive, 53a-59 to 53a-60c, inclusive,
88 53a-70 to 53a-71, inclusive, 53a-72b, 53a-86, 53a-92 to 53a-94a, inclusive,
89 53a-95, 53a-101, 53a-102a, 53a-103a [,] or 53a-111 to 53a-113, inclusive,
90 subdivision (1) of subsection (a) of section 53a-122, subdivision (3) of
91 subsection (a) of section 53a-123, section 53a-134, 53a-135, 53a-136a,
92 53a-166 [,] or 53a-167c, subsection (a) of section 53a-174, or section
93 53a-196a, 53a-211, 53a-212, 53a-216 or 53a-217b, by a child, or (B)
94 running away, without just cause, from any secure placement other
95 than home while referred as a delinquent child to the Court Support
96 Services Division or committed as a delinquent child to the
97 Commissioner of Children and Families for a serious juvenile offense;
98 (13) "serious juvenile offender" means any child convicted as
99 delinquent for commission of a serious juvenile offense; (14) "serious
100 juvenile repeat offender" means any child charged with the
101 commission of any felony if such child has previously been convicted
102 delinquent at any age for two violations of any provision of title 21a,
103 29, 53 or 53a that is designated as a felony; (15) "alcohol-dependent
104 child" means any child who has a psychoactive substance dependence
105 on alcohol as that condition is defined in the most recent edition of the
106 American Psychiatric Association's "Diagnostic and Statistical Manual
107 of Mental Disorders"; and (16) "drug-dependent child" means any
108 child who has a psychoactive substance dependence on drugs as that
109 condition is defined in the most recent edition of the American
110 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
111 Disorders". No child shall be classified as drug dependent who is
112 dependent (A) upon a morphine-type substance as an incident to
113 current medical treatment of a demonstrable physical disorder other
114 than drug dependence, or (B) upon amphetamine-type, ataractic,
115 barbiturate-type, hallucinogenic or other stimulant and depressant
116 substances as an incident to current medical treatment of a

117 demonstrable physical or psychological disorder, or both, other than
118 drug dependence.

119 Sec. 2. Subsection (a) of section 46b-121 of the general statutes is
120 repealed and the following is substituted in lieu thereof (*Effective*
121 *October 1, 2005*):

122 (a) (1) Juvenile matters in the civil session include all proceedings
123 concerning uncared-for, neglected or dependent children and youth
124 within this state, termination of parental rights of children committed
125 to a state agency, matters concerning families with service needs,
126 contested matters involving termination of parental rights or removal
127 of guardian transferred from the Probate Court, the emancipation of
128 minors and youth in crisis, but does not include matters of
129 guardianship and adoption or matters affecting property rights of any
130 child, youth or youth in crisis over which the Probate Court has
131 jurisdiction, provided appeals from probate concerning adoption,
132 termination of parental rights and removal of a parent as guardian
133 shall be included.

134 (2) Juvenile matters in the criminal session include all proceedings
135 concerning delinquent children in the state and persons [sixteen years
136 of age and] who have attained the applicable age or are older and who
137 are under the supervision of a juvenile probation officer while on
138 probation or a suspended commitment to the Department of Children
139 and Families, for purposes of enforcing any court orders entered as
140 part of such probation or suspended commitment. For the purposes of
141 this subdivision, "applicable age" means (A) before October 1, 2007,
142 sixteen years of age, and (B) on and after October 1, 2007, seventeen
143 years of age.

144 Sec. 3. Subsection (c) of section 46b-127 of the general statutes is
145 repealed and the following is substituted in lieu thereof (*Effective*
146 *October 1, 2005*):

147 (c) Upon the effectuation of the transfer, such child shall stand trial
148 and be sentenced, if convicted, as if [he were sixteen years of] such

149 child had attained the applicable age. Such child shall receive credit
150 against any sentence imposed for time served in a juvenile facility
151 prior to the effectuation of the transfer. A child who has been
152 transferred may enter a guilty plea to a lesser offense if the court finds
153 that such plea is made knowingly and voluntarily. Any child
154 transferred to the regular criminal docket who pleads guilty to a lesser
155 offense shall not resume his status as a juvenile regarding [said] such
156 offense. If the action is dismissed or nolleed or if such child is found not
157 guilty of the charge for which he was transferred or of any lesser
158 included offenses, the child shall resume his status as a juvenile. [until
159 he attains the age of sixteen years.] For the purposes of this subsection,
160 "applicable age" means (1) before October 1, 2007, sixteen years of age,
161 and (2) on and after October 1, 2007, seventeen years of age.

162 Sec. 4. Subsection (f) of section 46b-133c of the general statutes is
163 repealed and the following is substituted in lieu thereof (*Effective*
164 *October 1, 2005*):

165 (f) Whenever a proceeding has been designated a serious juvenile
166 repeat offender prosecution pursuant to subsection (b) of this section
167 and the child does not waive his right to a trial by jury, the court shall
168 transfer the case from the docket for juvenile matters to the regular
169 criminal docket of the Superior Court. Upon transfer, such child shall
170 stand trial and be sentenced, if convicted, as if [he were sixteen years
171 of] such child had attained the applicable age, except that no such child
172 shall be placed in a correctional facility but shall be maintained in a
173 facility for children and youth until he attains [sixteen years of] the
174 applicable age or until he is sentenced, whichever occurs first. Such
175 child shall receive credit against any sentence imposed for time served
176 in a juvenile facility prior to the effectuation of the transfer. A child
177 who has been transferred may enter a guilty plea to a lesser offense if
178 the court finds that such plea is made knowingly and voluntarily. Any
179 child transferred to the regular criminal docket who pleads guilty to a
180 lesser offense shall not resume his status as a juvenile regarding [said]
181 such offense. If the action is dismissed or nolleed or if such child is
182 found not guilty of the charge for which he was transferred, the child

183 shall resume his status as a juvenile. [until he attains sixteen years of
184 age.] For the purposes of this subsection, "applicable age" means (1)
185 before October 1, 2007, sixteen years of age, and (2) on and after
186 October 1, 2007, seventeen years of age.

187 Sec. 5. Subsection (f) of section 46b-133d of the general statutes is
188 repealed and the following is substituted in lieu thereof (*Effective*
189 *October 1, 2005*):

190 (f) When a proceeding has been designated a serious sexual
191 offender prosecution pursuant to subsection (c) of this section and the
192 child does not waive the right to a trial by jury, the court shall transfer
193 the case from the docket for juvenile matters to the regular criminal
194 docket of the Superior Court. Upon transfer, such child shall stand trial
195 and be sentenced, if convicted, as if such child [were sixteen years of]
196 had attained the applicable age, except that no such child shall be
197 placed in a correctional facility but shall be maintained in a facility for
198 children and youth until such child attains [sixteen years of] the
199 applicable age or until such child is sentenced, whichever occurs first.
200 Such child shall receive credit against any sentence imposed for time
201 served in a juvenile facility prior to the effectuation of the transfer. A
202 child who has been transferred may enter a guilty plea to a lesser
203 offense if the court finds that such plea is made knowingly and
204 voluntarily. Any child transferred to the regular criminal docket who
205 pleads guilty to a lesser offense shall not resume such child's status as
206 a juvenile regarding such offense. If the action is dismissed or nolle or
207 if such child is found not guilty of the charge for which such child was
208 transferred, the child shall resume such child's status as a juvenile.
209 [until such child attains sixteen years of age.] For the purposes of this
210 subsection, "applicable age" means (1) before October 1, 2007, sixteen
211 years of age, and (2) on and after October 1, 2007, seventeen years of
212 age.

213 Sec. 6. Subsection (a) of section 46b-142 of the general statutes is
214 repealed and the following is substituted in lieu thereof (*Effective*
215 *October 1, 2005*):

216 (a) The Chief Court Administrator, in consultation with the judges
217 of the Superior Court, shall establish districts for the purpose of
218 establishing venue in juvenile matters. All petitions concerning
219 delinquent children shall be heard within the district where the
220 delinquency is alleged to have occurred or where the child resides, in
221 the discretion of the court, except that, subject to the requirements of
222 section 46b-122, on and after October 1, 2007, a delinquency matter
223 concerning a child who is sixteen years of age or older may be heard in
224 the court for the geographical area where such child resides or, if such
225 child is not a resident of this state, in the court for the geographical
226 area where the delinquency is alleged to have occurred. All other
227 petitions shall be heard within the district where the child or youth
228 resided at the time of the filing of the petition, but for the purposes of
229 this section any child or youth born in any hospital or institution
230 where the mother is confined at the time of birth shall be deemed to
231 have residence in the district wherein such child's or youth's mother
232 was living at the time of her admission to such hospital or institution.

233 Sec. 7. Section 46b-148 of the general statutes is repealed and the
234 following is substituted in lieu thereof (*Effective October 1, 2007*):

235 [When a child whose family has been adjudicated as a family with
236 service needs in accordance with section 46b-149 violates any valid
237 order which regulates future conduct of the child made by the court
238 following such an adjudication, a probation officer, on receipt of a
239 complaint setting forth facts alleging such a violation, or on his own
240 motion on the basis of his knowledge of such a violation, may file a
241 petition with the court alleging that the child has committed a
242 delinquent act by reason of having violated a valid court order and
243 setting forth the facts claimed to constitute such a violation. Such child
244 may be processed as any other delinquent child under this chapter,
245 except that (1) such child shall not be held in detention prior to a
246 hearing on such petition for more than seventy-two hours excluding
247 Saturdays, Sundays and holidays; and (2) in entering any order that
248 directs or authorizes placement in a facility under the auspices of the
249 Court Support Services Division or commitment to the Department of

250 Children and Families, the judge shall make a determination that there
251 is no less restrictive alternative appropriate to the needs of the child
252 and the community.]

253 (a) Notwithstanding any provision of this chapter: (1) No child
254 whose family has been adjudicated as a family with service needs in
255 accordance with section 46b-149 may be processed or held in a juvenile
256 detention center as a delinquent child, or be convicted as delinquent,
257 solely for the violation of a valid order which regulates future conduct
258 of the child that was issued by the court following such an
259 adjudication; and (2) no such child who is found to be in violation of
260 any such order may be punished for such violation by commitment to
261 any juvenile detention center.

262 (b) In entering any order that directs or authorizes placement or
263 commitment of a child whose family has been adjudicated as a family
264 with service needs in accordance with section 46b-149, the court shall
265 make a determination that there is no less restrictive alternative
266 appropriate to the needs of such child and the community.

267 Sec. 8. Section 54-76b of the general statutes is repealed and the
268 following is substituted in lieu thereof (*Effective October 1, 2005*):

269 (a) For the [purpose] purposes of sections 54-76b to 54-76n,
270 inclusive; [, "youth"]

271 (1) "Youth" means (A) before October 1, 2007, a minor who has
272 reached the age of sixteen years but has not reached the age of eighteen
273 years, and on and after October 1, 2007, a minor who (i) has reached
274 the age of sixteen years but has not reached the age of eighteen years
275 and is charged with a motor vehicle violation that is not subject to the
276 jurisdiction of the superior court for juvenile matters, or (ii) has
277 reached the age of seventeen years but has not reached the age of
278 eighteen years, or (B) a child who has been transferred to the regular
279 criminal docket pursuant to section 46b-127, as amended by this act. [;
280 and "youthful offender"]

281 (2) "Youthful offender" means a youth who [(1)] (A) is charged with
282 the commission of a crime which is not a class A felony or a violation
283 of subdivision (2) of subsection (a) of section 53-21 [,] or section 53a-70,
284 53a-70a, 53a-70b, 53a-71, 53a-72a or 53a-72b, except a violation
285 involving consensual sexual intercourse or sexual contact between the
286 youth and another person who is thirteen years of age or older but
287 under sixteen years of age, [(2)] (B) has not previously been convicted
288 of a felony or been previously adjudged a serious juvenile offender or
289 serious juvenile repeat offender, as defined in section 46b-120, as
290 amended by this act, or a youthful offender, or been afforded a pretrial
291 program for accelerated rehabilitation under section 54-56e, and [(3)]
292 (C) is adjudged a youthful offender pursuant to the provisions of [said
293 sections] sections 54-76b to 54-76n, inclusive.

294 (b) The Interstate Compact for Adult Offender Supervision under
295 section 54-133 shall apply to youthful offenders.

296 Sec. 9. (*Effective from passage*) The Chief Court Administrator, the
297 Commissioner of Children and Families, the Commissioner of
298 Correction, the Chief State's Attorney, the Chief Public Defender, the
299 Child Advocate and the executive director of the Commission on
300 Children, or their designees, shall form an implementation team that
301 shall review all matters necessary to implement the increase in the age
302 limit for purposes of jurisdiction in delinquency matters from sixteen
303 to seventeen years of age as provided in this act. Such review shall
304 include, but not be limited to: (1) The feasibility of hearing delinquency
305 matters involving children sixteen years of age or older in
306 geographical area courts and the requirements and procedures
307 therefor; (2) the types of motor vehicle violations and offenses that
308 should be heard in the superior court for juvenile matters; (3) the
309 allocation of staff, facilities and services; and (4) the need for additional
310 legislation. Not later than February 1, 2006, the implementation team
311 shall submit a report concerning the team's findings and
312 recommendations to the joint standing committee of the General
313 Assembly having cognizance of matters relating to the judiciary. The
314 report required by this section shall be submitted in accordance with

315 section 11-4a of the general statutes."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	46b-120
Sec. 2	<i>October 1, 2005</i>	46b-121(a)
Sec. 3	<i>October 1, 2005</i>	46b-127(c)
Sec. 4	<i>October 1, 2005</i>	46b-133c(f)
Sec. 5	<i>October 1, 2005</i>	46b-133d(f)
Sec. 6	<i>October 1, 2005</i>	46b-142(a)
Sec. 7	<i>October 1, 2007</i>	46b-148
Sec. 8	<i>October 1, 2005</i>	54-76b
Sec. 9	<i>from passage</i>	New section